



*THE JUDICIARY, STATE OF HAWAII*

**Testimony to the House Committee on Judiciary**

The Honorable Jon Riki Karamatsu, Chair

The Honorable Ken Ito, Vice Chair

Tuesday, February 9, 2010, 2:30 p.m.

State Capitol, Conference Room 325

by

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**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 2784, Relating to Small Claims Court

**Purpose:** Increases the monetary limit of claims being filed in small claims court.

**Judiciary's Position:**

The Judiciary is concerned that by raising the jurisdictional limit to \$7,000 the intended benefits for a small claims case may not be fully realized under House Bill No. 2784. Additionally, Judiciary operations and support of mediation as an alternative method to resolve differences will be greatly impacted by increased filings by parties seeking a "quick" resolution of their claims.

The Judiciary notes that Senate Bill No. 359 introduced during the 2009 legislative session would raise the jurisdictional limit to \$5,000. An increase to \$5,000 would be consistent with the benefits of having a case heard in small claims court.

**Impacts on Litigants**

In Small Claims courts, litigants are afforded the following benefits:



1. A plaintiff is allowed to keep control of where the case is heard. If there is no right to a jury trial, a case cannot be removed to Regular Claims court or to Circuit Court without the plaintiff's consent.
2. A case is generally set for trial within 30 days. Since parties represent themselves and the rules of evidence are relaxed, cases are heard more quickly than in other trial courts.
3. There is no right to appeal the judgment. The parties are able to have their case come to a final resolution. If there is a monetary award to any party, that party can timely receive his or her award.
4. Parties have an opportunity to resolve their differences with the help of a mediator. The Judiciary supports mediation because it provides useful opportunities for resolution that may help to preserve relationships and bring more satisfying results for all parties involved.

For cases in which a plaintiff has a claim between \$5,000 and \$7,000 in small claims court under this proposed bill, a defendant would have the right to demand a jury trial under Article I, Section 13, of the Hawaii State Constitution. Once a jury trial is demanded, the case would automatically be transferred to Circuit Court. A transfer of a case to Circuit Court would vastly increase the length of time to resolve the case and the costs incurred by all parties. Thus, the benefits in Small Claims court would be lost.

#### **Impacts on Judiciary Operations**

The Judiciary notes that if the jurisdictional limit is increased there will be an increased number of cases filed in Small Claims court. Currently, the Small Claims court has already seen an increase in the amount of filings and this increase in caseload has had a tremendous impact on the court staff and its operating costs, such as supplies, equipment and other support costs.

#### **Impacts on Mediation**

Mediation services are provided to parties in small claims through a Purchase of Service contract (POS) administered by the Judiciary with the community mediation centers.

Last year the POS was significantly reduced. With the current budget crisis, POS contracts are in danger of being further cut or reduced. If the jurisdictional limit in Small Claims is increased to \$7,000, and if the POS contract amount is decreased, the Judiciary and the community mediation centers will not be able to maintain their current service level.

Thank you for the opportunity to testify on this measure.